

REMARKS

Status of the claims:

No amendments have been made in the above claims. However, Applicants have reproduced the claims above to correct their current status. In this regard, claims 4-13, 16, and 17 are withdrawn from a prior restriction requirement and claims 1-3 and 20-47 are pending and ready for further action on the merits. Reconsideration is respectfully requested in light of the following remarks.

Rejections under 35 U.S.C. § 103

Claims 1-3 and 20-47 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over EP '310 (EP 1 008 310 A1) in view of Furuno '195 (US Patent No. 6,200,195).

Applicants traverse.

To establish a proper case of obviousness, one must apply the *Graham v. John Deere* factors. These factors include:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

See *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966).

Moreover, recently in the KSR case, regarding obviousness, the Court held

*Often, it will be necessary . . . to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) ([R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some*

articulated reasoning with some rational underpinning to support the legal conclusion of obviousness).

See *KSR International Co. V. Teleflex Inc. et al.* (Supreme Court Bench Opinion No. 04-1350.)

When the *John Deere* factors and the holding in *KSR* are considered in light of the rejection presented, one can only conclude the instantly claimed invention is non-obvious for the following reasons.

The adhesive fabric recited in claim 1 of the instant invention claims “a barrier layer bonded on one side of a fabric substrate and a cured adhesive silicone gel layer bonded to the barrier layer whereby the barrier prevents absorption of the adhesive silicone gel coating into the fabric substrate”.

This arrangement of the adhesive fabric as claimed ensures that the adhesive silicone gel does not penetrate through the fabric substrate, and thereby prevents the undesirable exposure of sticky silicone gel on the uncoated side of the fabric substrate.

EP ‘310 discloses a sag-preventative member provided on a cloth layer that includes an adhesive layer adhered to the cloth by means of a hot melt film. EP ‘310 fails to disclose the use of a cured adhesive silicone gel layer to provide the required adhesion. Moreover, EP ‘310 fails to disclose the feature wherein a barrier layer lies between the adhesive layer and the fabric substrate so as to prevent absorption of the adhesive layer to the fabric substrate, which is a feature of claim 1 of the instant invention.

Furuno ‘195 fails to make up for the deficiencies of EP ‘310. Furuno ‘195 discloses an adhesive pad for adhering to human skin. The pad includes a first layer of silicone rubber that is semi-cured so as to retain its shape. A layer of uncured silicone gel is then integrally cured with the semi-cured layer in a heated mould.

The Examiner has suggested that it would have been obvious to a person of ordinary skill to replace the hot melt film and adhesive layer of the first document with the semi-cured silicone rubber layer and uncured silicone gel of the second document.

However, Applicants respectfully submit that neither of the cited references provides any disclosure or teaching that would lead a person of ordinary skill to consider using a semi-cured silicone rubber to bond a silicone gel layer to a fabric substrate so as to prevent penetration of the silicone gel layer through the fabric substrate.

The silicone rubber layer disclosed in Furuno '195 is provided to define the shape of the adhesive pad. A person of ordinary skill would not therefore have considered using a semi-cured silicone rubber layer as a barrier layer between a fabric substrate and a layer of uncured silicone gel, and would in fact have been discouraged from doing so, because the semi-cured silicone-rubber layer would have provided a rigidifying effect on the fabric substrate following curing. Thus, when Furuno '195 is viewed in whole and combined with EP '310, it actually teaches away from the present invention.

Moreover, Applicants respectfully draw the Examiner's attention to *In re Gordon*, which held that "If [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." See *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). For this reason also, the combination of EP '310 and Furuno '195 cannot render the present invention obvious.

Thus, as a matter of law, one can only conclude that the adhesive fabric recited in claim 1 of the present invention cannot be rendered obvious by EP '310 in view of Furuno '195. Moreover, it follows that the dependent claims also cannot be rendered

obvious by EP '310 in view of Furuno '195. For these reasons, the rejection is inapposite.

Withdrawal of the rejection is warranted and respectfully requested.

CONCLUSION

With the above amendments and remarks, Applicants believe that all objections and/or rejections have been obviated. Thus, each of the claims remaining in the application is in condition for immediate allowance. A passage of the instant invention to allowance is earnestly solicited.

Applicants respectfully petition for a one month extension of time. Applicants believe that no fee is necessary, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 16-1435.

Should the Examiner have any questions relating to the instant application, the Examiner is invited to telephone the undersigned at (336) 607-7486 to discuss any issues.

Respectfully submitted,

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